



State of Utah

DEPARTMENT OF NATURAL RESOURCES
DIVISION OF OIL, GAS AND MINING

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November 7, 2002

TO: Internal File

THRU: Priscilla Burton, Senior Reclamation Soils Specialist/Team Lead

FROM: Joe Helfrich, Biologist

RE: Winter Quarters North Lease, Canyon Fuel Company, LLC, Skyline Mine,
C/007/005 SR02I-1

SUMMARY:

On September 4, 2002 Canyon Fuel Co., LLC submitted a significant permit revision to add 3,291 acres of federal lease UTU-67939 to its permit area for the Skyline Mine. The new lease # UTU-67939 is located in the area of Woods, Winter Quarters, and Green canyons southwest of the town of Scofield in Carbon County. The area encompassed by the lease can be found on drawing number 1.6-3 of the application. There is no additional surface disturbance associated with this lease addition. The Division of Oil, Gas and Mining determined the Winter Quarters Tract lease addition to the Skyline Mine administratively complete on September 30, 2002. An environmental assessment was prepared by the U.S. Forest Service in 1995 and a Joint Finding of No Significant Impact / Decision Notice / Rationale was prepared by the BLM and Forest Service on January 23, 1996. On October 22, 2002 the Technical Analysis, (TA), was sent to Dan Meadors. On November 5, 2002 the Division received a response to the October TA. This memo will address the applicants response to the Cultural Resource and Biology, (wildlife), deficiencies identified in the TA.

TECHNICAL MEMO

ENVIRONMENTAL RESOURCE INFORMATION

Regulatory Reference: Pub. L 95-87 Sections 507(b), 508(a), and 516(b); 30 CFR 783., et. al.

HISTORIC AND ARCHEOLOGICAL RESOURCE INFORMATION

Regulatory Reference: 30 CFR 783.12; R645-301-411.

Analysis:

U.S. Forest Service Lease Stipulation #1 requires that a cultural resource inventory and a paleontological appraisal of the areas to be disturbed.

Section 2.1.1 of the application discusses the Cultural, Historical, and Archeological resources. This section refers to the 1995 Environmental Assessment (EA) Appendix B (Criterion Number 7) which states that there are no properties included in the National Register of Historic Places on or near the proposed lease tract. Section 2.1.1 also refers to Page 10 section H of the EA which states that "Leasing of the tract should not result in significant impacts to cultural or paleontological resources." A copy of the EA is provided for in Appendix A-2 of the application. Section 2.1.1 page 2-4b refers to the AERC, (Archeological Environmental Research Corporation), reports.

Section 2.1.1 page 2-4b of the application refers to a 1996 Archaeological-Environmental Research Corporation (AERC) Report entitled "Cultural Resource Evaluation of Proposed Drillholes & Associated Access Routes in the Upper Winter Quarters Canyon and Winter Quarters Ridge Locality of Carbon County, Utah." The report states that "No previously recorded significant or National Register eligible cultural resources will be adversely effected by the proposed developments. No isolated artifacts were observed during the evaluation. No paleontological loci were identified during the evaluation. No newly identified cultural resource activity loci were discovered during the examination." This document is provided for in Appendix A-2 of the application.

As required by regulation the Division has notified the State Historic Preservation Officer (SHPO) of Canyon Fuel's application to mine in the identified lease area and requested their concurrence with the EA and current findings. In a conversation with Jim Dykman from the SHPO, on November 12, 2002 Mr. Dykman indicated that concurrence was granted when the request lapsed for 30 days, on or about November 10, 2002. A copy of the "E" mail from Mr. Dykman confirming No Historic Properties Affected is included in the file.

Findings

The information in the Mining and Reclamation Plan, MRP, Environmental Assessment, EA, application and concurrence from SHPO is adequate to meet the requirements of this section of the regulations.

FISH AND WILDLIFE RESOURCE INFORMATION

Regulatory Reference: 30 CFR 784.21; R645-301-322.

Analysis:

The Fish and Wildlife Information is provided in Sections 2.8 through 2.10 of the application, and volume 1A of the approved Mining and Reclamation Plan (MRP). Sec. 2.1.2, and 2.7.6, and 2.10.2 discuss Threatened & Endangered (T & E) species. Sections 2.8, 2.9 and 2.9-5 discuss aquatic and terrestrial wildlife information. Sections 2.10 and 2.10.2 discuss raptors. Avocet Consulting Inc. has been included in section 2.1 of the application as the firm that conducted the Ground Surveys for Nesting Raptors.

Drawing 1.6-3 has been revised to include the proposed addition to the permit area. This map shows the addition of the lease boundary. The proposed addition to the permit area includes critical value summer deer and elk and high value winter moose habitats. The applicant has committed to conduct raptor, macroinvertebrate and fish surveys during early summer 2003, prior to any subsidence occurring in 2004. On October 24, 2002 a meeting was held to discuss wildlife resource information required for the new lease. Specifically discussed were raptor monitoring, three-toed woodpecker monitoring and a survey protocol for macroinvertebrate and fish sampling. Agencies represented were The USFS, USFWS, DWR and the Division. The representatives from the Forest Service indicated they did not need additional monitoring for raptors and the three-toed woodpecker for the proposed North Lease addition. An "E"-mail letter from the Forest Service was provided to the Division on November 14, 2002. This letter stated their position and is included in the file. Additional comments regarding sensitive species included the Goshawk was not likely to be affected by subsidence, there would be no impacts to the three toed wood pecker, the wolverine had not been seen in Utah for many years, boreal toad habitat may be present but would be evaluated during the mollusk and amphibian survey, there were no bats in the proposed lease area, and Sage Grouse were noted in adjacent areas. Copies of the macroinvertebrate sampling protocol were provided to the Division and applicant. In section 2.8 page 2-71a of the application the applicant has committed to implement the survey protocol to be determined by the Division, USFS, Division of Wildlife Resources and the USFWS.

TECHNICAL MEMO

The Division has asked the Permittee for information on the perennial nature of the streams and the reaches of the streams in the Environmental Resources Hydrologic Resource Information section of this TA. During a field visit to the proposed lease area on September 27, 2002 it was noted that water was flowing in Winter Quarters Creek, three unnamed tributaries and Bob's and Box Canyons. There is an established riparian corridor along the main stream channel. An unnamed side canyon to the south (approximately 1 mile from the F.S. boundary) was flowing, but had been dammed by beaver activity. Fish were also observed in the lower reaches of the main stream near the east permit boundary.

The entire North Lease area is considered critical value elk summer use area and a high value deer summer use area on the Utah Natural Heritage Program database (e-mail communication from Anne Axel Information Manager, Utah Natural Heritage Program, Utah Division of Wildlife Resources, 10/21/02). The database showed no records of occurrence of threatened, endangered, or sensitive plant or animal species in the proposed addition. No raptor nests were shown on this database or the DWR database.

Findings

The information contained in this section of the application is adequate to meet the requirements of these sections. The Division will require that macroinvertebrate survey protocol be established and a macro invertebrate survey be conducted for two years prior to longwall mining and two years after mining in the area.

MAPS, PLANS, AND CROSS SECTIONS OF RESOURCE INFORMATION

Regulatory Reference: 30 CFR 783.24, 783.25; R645-301-323, -301-411, -301-521, -301-622, -301-722, -301-731.

Analysis:

Archeological Site Maps

The 1996 archaeological information is provided for in Appendix A-2 of the application. The archaeological site map is provided for in Appendix Volume A-3 of the approved MRP.

The SR proposal extends the underground mining operations. There is no change to the approved MRP.

Wildlife Maps

Wildlife maps are provided for in Appendix A-2 of the North Lease application and volume A-2 of the MRP. The applicant has committed to conduct a current raptor survey in the early summer 2003, prior to longwall mining.

Findings:

The information in the application and Mining and Reclamation Plan, (MRP), is adequate to meet the requirements of this section of the regulations.

OPERATION PLAN

PROTECTION OF PUBLIC PARKS AND HISTORIC PLACES

Regulatory Reference: 30 CFR 784.17; R645-301-411.

Page 10 section H of the Environmental Assessment for the lease area states that "Leasing of the tract should not result in significant impacts to cultural or paleontological resources." According to Appendix B of the EA there are no public roads, cemeteries, public buildings, or occupied dwellings within the proposed lease area. Supporting documents for these statements are provided in Appendix A-2 of the application.

Findings

The applicant has provided the 1996 archaeological information in Appendix A-2 of the application. The Mining and Reclamation Plan, MRP, Environmental Assessment, EA, and supportive archeological information are adequate to meet the requirements of this section of the regulations.

FISH AND WILDLIFE INFORMATION

Regulatory Reference: 30 CFR Sec. 784.21, 817.97; R645-301-322, -301-333, -301-342, -301-358.

TECHNICAL MEMO

Analysis:

Protection and Enhancement Plan

Potential impacts from mining would be best characterized as habitat loss. Since there will be no surface disturbance the only potential impact would be habitat loss resulting from subsidence. The current application anticipates mining underneath perennial streams but this permit approval will only allow first mining. Prior to approval of full extraction protection measures must be identified. The application must include a description and protection measures from subsidence of specific areas where habitat loss might occur.

Endangered and Threatened Species

According to the 1995 Environmental Assessment written jointly by the USFS and the BLM, the listed threatened, endangered and/or sensitive species that may occur within the proposed lease area are the Bald Eagle, Northern three-toed woodpecker, and Northern Goshawk. Suitable bald eagle nesting habitat does not occur in the permit area. The bald eagle would only occur as a winter resident and surveys will not be conducted. The Permittee has committed in the application to conduct a raptor survey in the early summer of 2003. A survey for the three-toed woodpecker must also be conducted. If either of the species noted in the EA are observed, the application should then describe protection measures (as noted in the previous section).

All of the threatened or endangered species that could occur in Carbon County occur at lower elevations than the mine and have no habitat in the proposed permit area expansion.

There have been no confirmed sightings of Black-Footed Ferrets in Carbon County in several years.

The mine has potential, through water depletions, of adversely affecting four listed threatened and endangered fish species of the upper Colorado River drainage. The Fish and Wildlife Service requires mitigation when water depletions exceed 100 acre-feet annually. Section 2.5.3 addresses the water consumption from mining activities. Page 2-51d of this section indicates that mining water consumption from mining activities is approximately 159 acre-feet/year. The applicant has committed to implement a mitigation plan that addresses the consumption of water in excess of 100 acre-feet per year. USFWS concurrence is pending.

Bald and Golden Eagles

Bald eagles are not common in the area during the winter but could occasionally fly through or roost in the proposed addition to the permit area. Mining would have negligible effects on these birds. The Forest Service stated that Bald Eagles are frequently seen around

Scofield reservoir in October and November. After the reservoir freezes the waterfowl leave as do the eagles.

Wetlands and Habitats of Unusually High Value for Fish and Wildlife

The perennial streams, springs and riparian areas within the proposed lease area would be considered habitats of high value for fish and wildlife. The 1995 EA reports that the riparian habitat appears to be in excellent condition on the forest (in the North Lease area), but below the forest boundary to the east it has been heavily impacted by livestock grazing.

The applicant has committed to surveying perennial flows in the lease area for fish and amphibian habitat. **The Division, the USFS, and the USFWS and the UDWR will determine the survey protocol, scope and level of detail.**

Findings:

The information contained in this section of the application is adequate to meet the requirements of these sections of the regulations. Prior to second or longwall mining the Division will require the following:

- (1) The development and implementation of a mitigation and protection plan in cooperation with The USFWS for the additional 59 acre- feet/year of water used for mining consumption.
- (2) A description of specific areas where habitat loss might occur from subsidence and then describe specific protection measures that will be provided.

RECOMMENDATIONS:

The application is recommended for approval.